

July 15, 2023

VIA ECF

Hon. Katharine H. Parker
United States District Court
Southern District of New York
500 Pearl Street, Room 750
New York, NY 10007

Re: *Kaiser Aluminum Warrick, LLC v. US Magnesium, LLC*, Case No. 1:22-cv-3105 (JGK) (KHP)

Dear Judge Parker:

Plaintiff Kaiser Warrick Aluminum, LLC (“Kaiser”) and Defendant US Magnesium, LLC (“US Mag”) write jointly pursuant to the Court’s June 2, 2023 Order (ECF No. 101) to provide an update on the status of discovery.

Kaiser has taken six depositions to date. Specifically, Kaiser took the deposition of non-party Universal Plant Services, through its designated representative Christopher Lab, on May 17, 2023, in Houston. Kaiser also took the depositions of US Mag witnesses Ron Thayer, Cameron Tissington, Peter Ngai, and Ray Bassani on May 22-25, 2023, in Salt Lake City, and the deposition of former US Mag employee Cody Nielson by video on June 28, 2023. Kaiser has also requested that US Mag supplement its production of documents. US Mag has agreed to search for and produce those documents before the next round of depositions, which are the depositions of US Mag employee Martin Davis, non-party Greg Taylor (formerly of Core Industrial), former US Mag employee Remington Lawrence, and a follow-up deposition of US Mag CEO Ron Thayer on July 26-28, 2023, in Salt Lake City. Kaiser will also depose Kevin Sheridan of General Electric.

US Mag has taken four depositions to date. Specifically, US Mag took the depositions of Kaiser witnesses Del Miller, Evan Quinley, Dustin Garrels, and Neal West by video on July 10-13, 2023. US Mag will take the depositions of Kaiser witnesses Nick Badgett and Rick Siegel on August 3 and 25, respectively, either by video or in person near Nashville.

On June 6, 2023, Judge Koeltl denied US Mag’s motion to dismiss on damages issues. On or around June 21, 2023, US Mag served non-party subpoenas for documents and depositions on Alcoa Corporation (Kaiser’s predecessor in interest under the Magnesium Supply Agreement at issue) and Kaiser customers Silgan Containers, LLC, Pepsi-Cola Advertising and Marketing, Inc., and Anheuser-Busch, LLC. These non-parties requested extensions of time to respond to the subpoenas until September 7, 2023. These third parties have not committed to deposition dates and have requested additional time to identify witnesses. The parties therefore anticipate that these depositions will occur after the current fact discovery period ends on August 31, 2023 (ECF No. 79), and have agreed to extend the fact discovery deadline until September 30, 2023. US Mag is working diligently to schedule these depositions, and will coordinate with Kaiser to request any further extension of time to the extent necessary once such depositions are scheduled.

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The parties will make themselves available to answer any questions that the Court may have.

Respectfully submitted,

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